

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 2021-143-E AND 2021-144-E

IN RE: Application of Duke Energy Progress, LLC for)
Approval of Smart \$aver Solar as Energy) **SOUTH CAROLINA OFFICE OF**
Efficiency Program) **REGULATORY STAFF'S**
) **MOTION REQUESTING ORAL**
Application of Duke Energy Carolinas, LLC) **ARGUMENT**
for Approval of Smart \$aver Solar as Energy)
Efficiency Program)
)

The South Carolina Office of Regulatory Staff (“ORS”) hereby moves the Public Service Commission of South Carolina (“Commission”) for an Order scheduling oral argument on the legal issues set forth in the Motion for Partial Summary Judgment filed contemporaneously herewith prior to the October 28, 2021, merits hearing currently scheduled in the above-referenced dockets. This motion is made pursuant to S.C. Code Regs. 103-829 and is based upon S.C. Code Ann. § 58-4-50(4), S.C. Code Ann. Regs. 103-829(B), and other applicable provisions of law. In support thereof, ORS would respectfully show unto the Commission as follows:

In the Applications filed by Duke Energy Progress, LLC (“DEP”) and Duke Energy Carolinas, LLC (“DEC”) (collectively “Duke Energy” or the “Companies”), the Companies seek approval of two (2) programs identified as Smart Saver Solar as Energy Efficiency Programs (“Programs”) to be included in their suite of approved EE/DSM programs.¹ If approved, the Programs would provide residential customer generators who apply to install rooftop solar and receive service under Rate RE within the Solar Choice Metering Program on or after January 1,

¹ Application of DEP, p. 1; Application of DEC, p. 1; *see also* Direct Testimony of Lynda Shafer p. 3, ll. 9-12; Direct Testimony of Timothy Duff, p. 3, ll. 10-23; *see also* pp. 4-5.

2022, with a one-time Rooftop Incentive Payment of \$0.36/Watt-DC. According to the Companies, only customers who become Solar Choice Metering customers “on or after January 1, 2022,” would be eligible, and those customers would be required to comply with the additional installation and interconnection requirements of the Residential Solar Choice Rider (the “Rider”).² Duke Energy requests the Commission approve the Programs pursuant to S.C. Code Ann. § 58-37-20 and assert they will “recover Program costs through the Companies’ annual EE/DSM rider proceedings pursuant to the cost recovery mechanism.”³ Therefore, if the Commission approves the Programs, Duke Energy not only will recover its related expenses, but also will recover net lost revenues (“NLR”) and earn an associated Portfolio Performance Incentives (“PPI”) of 10.6 percent on these Programs.⁴

Although the Companies assert that the Programs constitute an EE/DSM program and, therefore, are subject to the cost and lost revenue mechanism of S.C. Code Ann. § 58-37-20, S.C. Code Ann. § 58-40-20(I) provides that “[e]lectrical utilities are prohibited from recovering lost revenues associated with customer-generators who apply for customer-generator programs on or after June 1, 2021.” The Companies acknowledge that these Programs fall within the Solar Choice Program⁵ approved by this Commission pursuant to Commission Order No. 2021-390,⁶ which was

² Direct Testimony of Lynda Shafer, p. 4, ll. 19-22.

³ *Id.* at p. 7, ll. 15-17.

⁴ DEC Response to ORS AIR 1 at 1-22; *see also* S.C. Code Ann. § 58-37-20.

⁵ “DEC proposes to offer an incentive for each new watt of solar PV installed by customers eligible for service under rate Schedule RE within the Solar Choice Program.” Duff Direct Exhibit No. 1, pp. 3-4. Regarding DEC, “[t]he Customer must comply with all installation and interconnection requirements of the proposed Residential Solar Choice rider.” Duff Direct Exhibit No. 1, p. 10; “DEP proposes to offer an incentive for each new watt of solar PV installed by residential customers within the Solar Choice Program.” Duff Exhibit No. 2, p. 3. Regarding DEP, “[t]he Customer must comply with all installation and interconnection requirements of the proposed Residential Solar Choice rider.” Duff Exhibit No. 2, p. 9; Direct Testimony of Lynda Shafer, p. 4, ll. 19-22, p. 5, ll. 1-3.

⁶ N. 1, Direct Testimony of Lynda Shafer, p. 4; Order No. 2021-390 applies to both DEC and DEP.

issued pursuant to S.C. Code Ann. § 58-40-20.⁷ Accordingly, this matter presents a question of law as to whether S.C. Code Ann. § 58-40-20(I) adopted pursuant to Act No. 62 prohibits Duke Energy from recovering its lost revenues associated with the Programs. As such, ORS requests oral argument to determine whether the Programs as proposed contravene state law.

Accordingly, ORS respectfully requests that the Commission grant this Motion Requesting Oral Argument to determine whether the Programs are prohibited under the laws of the State of South Carolina, and for such other and further relief as the Commission deems just and proper to protect the rights of the Companies' customers.



Alexander W. Knowles, Esquire
 Andrew M. Bateman, Esquire
 Benjamin P. Mustian, Esquire
South Carolina Office of Regulatory Staff
 1401 Main St., Ste. 900
 Columbia, SC 29201
 Phone: (803) 737-0800
 (803) 737-0801
 Email: aknowles@ors.sc.gov
bmustian@ors.sc.gov
abateman@ors.sc.gov

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⁷ See Docket titles, "Docket No. 2020-264-E — Duke Energy Carolinas, LLC's Establishment of Solar Choice Metering Tariffs Pursuant to S.C. Code Ann. Section 58-40-20 (See Docket No. 2019-170-E);" "Docket No. 2020-265-E — Duke Energy Progress, LLC's Establishment of Solar Choice Metering Tariffs Pursuant to S.C. Code Ann. Section 58-40-20 (See Docket No. 2019-169-E);" *see also* "[t]his proceeding arises out of the NEM provisions within Act 62 that direct this Commission to 'establish a 'solar choice metering tariff for customer-generators to go into effect for applications received after May 31, 2021.'" S.C. Code Ann. § 58-40-20(F)(1)," pp. 22-23; "[t]he Commission's consideration of these tariffs is guided by the broader expression of the General Assembly's intent in S.C. Code Ann. § 58-40-20(A)," p. 23, among others.